

phrase is to be preferred, it should, in the absence of some specific excluding provision, cease to be regarded as Crown land. A

In determining whether the Services' Lands Board is a servant or agent of the Crown, to adopt Lord Justice Denning's phrase, one must presumably consider its constitution, control and purposes. Apart from the question of constitution, which can be derived from the Services' Lands Board Ordinance itself, the other elements would seem to be a matter of evidence, as no direct assistance can be derived from the Ordinance. B

On the face of it there would seem to be nothing in the Ordinance which is inconsistent with the conception that the Services' Lands Board is an agent of the Crown. C

Accepting that the expression "Crown" should be held to cover the Sovereign in her public capacity as a body politic embracing all her emanations, it is difficult to avoid the conclusion that the Armed Services of the Crown are one of the most important of such emanations. D

Mr. Cheng Tim Pin in his able argument made the point that the Crown has many facets and that the Sovereign must at times be regarded in different capacities, vis-a-vis, for example, the United Kingdom and the State of Singapore. E

Be that as it may, it does not seem to me to affect the basic conception of the Crown as being one and indivisible, even if it acts through separate fiscal agencies. F

It is for these reasons that I have formed the view that the learned Magistrate was premature in dismissing the summons for the reasons that he did. There is, to my mind, nothing inherently improbable, on the face of the Ordinance, in the Services' Lands Board holding lands for the purposes of the Crown, within the wide definition that I have referred to above. It may well be — though it would perhaps seem to be unlikely — that an investigation into the purposes and practice of the Services' Lands Board might properly lead a Magistrate to a contrary conclusion. That position is conceded by the appellant and is, from one aspect, the basis of his complaint. He contends that he should at least be given an opportunity of adducing before the Magistrate evidence and arguments that the purposes and practice of the Board are consonant with the holding of such lands as are vested in them for the purposes of the Crown. G

The appeal must therefore be allowed and the case remitted for consideration of the matters that I have mentioned; and for completion. H

Appeal allowed.

Solicitors: *Drew & Napier; Rodyk & Davidson.* I

Re SIMON NICHOLAS

[O.C.J. (Rose C.J.) March 9, 1962]

[Singapore — Admission of Advocates and Solicitors
No. 23 of 1961]

*Advocates and Solicitors — Admission — Reading
in Chambers — Shortening of — Special circumstances.*

An application for a reduction of the period of instruction in Chambers should not be regarded as a mere matter of form. Some special circumstances must be established. Long experience as a clerk in an advocate and solicitor's firm is not a special circumstance which would justify a reduction of the period.

APPLICATION FOR ADMISSION.

A. P. Godwin for the petitioner.

R. H. Green for the Bar Committee.

T. S. Sinnathuray (Crown Counsel) for the State Advocate-General.

Rose C.J. (delivering oral judgment): In this case the petitioner asks that there should be a reduction of the period of instruction in Chambers from twelve months to seven. A caution is entered by the Chairman of the Bar Committee and by Mr. Sinnathuray on behalf of the State Advocate-General. I say at once that there is no suggestion in this case that there is any criticism of the petitioner's standing as such or any suggestion that when he is ultimately admitted to the Bar he will not be a suitable member of the profession; but, a caution having been propounded, I have to consider the principles in this matter. D

Now one must assume that the purpose of the legislature was to insure that a person after his call should have a period — which the legislature in its wisdom prescribes as twelve months — in which to work in Chambers. Here we have an application from a gentleman who has worked seven months in Chambers and I am asked to say that the period should be reduced because of special circumstances. On behalf of the petitioner it is said that he has had long experience as a clerk in the same firm and he is now working in the same firm as a member of the Bar. It is said that I should take his long experience as a clerk into consideration for reducing the period. I have been invited to look at this as a matter of principle, and on a matter of principle I am not inclined to accede to the request. I do not think that long experience as a clerk in a firm is a special circumstance which would justify a reduction of the period. E

I would observe that an application for a reduction of this period in Chambers should not be regarded as a mere matter of form. Some special circumstances must be established. In the present case, in my opinion, there are none. F

I would repeat once again what I said at the beginning that Mr. Nicholas should not interpret either the attitude of the Bar Committee or the State Advocate-General or my decision as being in any way a reflection upon him personally either as a man or as a member of the legal profession.

In the circumstances, I must refuse the application.

Application refused.

Solicitors: *Donaldson & Burkinshaw; Brad-dell Bros.; State Advocate-General.*

FOO YONG FONG & ANOR. v. REGINA

[A.Cr.J. (Rose C.J.) March 23, 1962]

[Singapore — Magistrate's Appeal No. 6 of 1962]

Criminal Law and Procedure — Voluntarily causing hurt — Penal Code, s.323 — Assault — Strike — Assault on non-striking employees — Assault by trade union officers — Whether offences committed in same transaction — Joint trial — Criminal Procedure Code (Cap.132), ss.161 and 169 — Whether nullity.

Trade Dispute — Trade Union officers not employees of company whose employees are on strike — Assault by them on non-striking employees — Provocation, violence and humiliation — Protection from intimidation and violence — Observations on duties of disputing parties.

Sentence — Consideration of background of episode in imposing.

Forms and procedure — Objects of.

J. and B. were employees of Guthrie & Co. Ltd. On the day in question there was a strike at the said firm. While J. and B. and other employees were leaving the premises in some form of protective formation the appellants, who were not members of the said firm assaulted them. They were then charged under section 4(a) of the Trade Disputes Ordinance (Cap.153). Subsequently, this charge was amended to that of an offence punishable under section 323 of the Penal Code. It was argued for the appellants that the trial was a nullity because the charges as constituted at the outset contained an illegality which was incurable.

Held: (1) as the two persons were charged with assaulting the same person at the same place, at the same time the offences were committed in the same transaction. Further, the two appellants were in no way prejudiced, hindered or embarrassed in their defence by reason of the form of the charges;

(2) having regard to the episode itself and to the position that the appellants occupy in Union circles three months' imprisonment in each case would not be inappropriate and the appeal should be dismissed.

Per curiam: "It is not the duty of Courts to shut their minds to topical events.....in this city in recent months there have been a number of strikes. In such a situation when incidents arising from such strikes come before them, the duty of the Courts is plain. It is to demonstrate for all to see that both strikers and non-strikers are entitled to be protected from intimidation and violence.

Every worker has a right to strike; every worker also has a right to remain at work. There is a duty upon both striker and non-striker to ensure that violence and provocation to violence is avoided; otherwise a serious situation can all too easily arise.

A particular responsibility devolves upon persons holding responsible positions on either of the disputing sides. An employer himself, or his senior executive, should take care to see that the working party is in no way provocative and causes no interference to the peace-

ful and legitimate activities of pickets. Union officials, on the other hand, assuming that they find it necessary to attend the scene of the strike even though they themselves are not employees of the firm in question, must be particularly careful to avoid any provocative act."

Obiter: Forms and procedures, whether civil or criminal, are not intended or devised in order to put obstacles in the way of the plaintiff or the prosecution, as the case may be. They are designed to ensure that the issues to be determined are fairly and clearly stated, so that the defendant in a civil and the accused in a criminal case knows the case that he has to meet and is not placed in a position of embarrassment. Thus a fair trial is assured.

Case referred to:—

(1) *Babulal Chaukhani v. King-Emperor*, A.I.R. 1938 P.C. 130.

MAGISTRATE'S APPEAL.

David Marshall for the 1st appellant.

T. T. Rajah for the 2nd appellant.

Abdul Wahab Ghows (Senior Crown Counsel) (*Sachi Saurajen* with him) for the respondent.

Rose C.J.: The first appellant was charged in the following terms:—

"(1) That you, on or about the 2nd day of December, 1961 at about 12.30 p.m. on the five-footway of Chartered Bank Chambers, Battery Road, Singapore, did use violence by assaulting one Mr. R. F. Jenkins, a non-striking employee of Guthrie & Co. Ltd. with a view of intimidating the said R. F. Jenkins to abstain from reporting for work and you have thereby committed an offence under section 4(a) of Cap. 153.

(2) You are also charged that on the 2nd day of December, 1961 at about 12.30 p.m. on the five-footway of Chartered Bank Chambers, Battery Road, Singapore, did use violence by assaulting one Mr. M. J. B. Bell, a non-striking employee of Guthrie & Co. Ltd. with a view of intimidating the said Mr. M. J. B. Bell to abstain from reporting for work and you have thereby committed an offence under section 4(a) of Cap. 153."

At the same time, and in the same case, the second appellant was charged as follows:—

"That you, on or about the 2nd day of December, 1961 at 12.30 p.m. on the five-foot path of Chartered Bank Chambers, Battery Road, Singapore, did use violence by assaulting one Mr. R. F. Jenkins, a non-striking employee of Guthrie & Co. Ltd. with a view of intimidating the said Mr. R. F. Jenkins to abstain from reporting for work and you have thereby committed an offence under section 4(a) of Cap. 153."

A formal amendment was applied for and granted which involved the substitution of the word "compelling" for "intimidating" in all the charges against the two appellants.

At the close of the prosecution case the charges were further amended to read as follows:—

"You, Foo Yong Fong, are charged that you, on or about the 2nd day of December, 1961, at about 12.30 p.m. on the five-footway of Chartered Bank Chambers, Battery Road, Singapore, did voluntarily cause hurt to one R. F. Jenkins and you have thereby committed an offence punishable under section 323 of the Penal Code (Chapter 119).

2. You, Foo Yong Fong, are charged that you, on or about the 2nd day of December, 1961, at about 12.30 p.m. on the five-footway of Chartered Bank Chambers, Battery Road, Singapore, did voluntarily cause hurt to one M. J. B. Bell, and you have thereby committed an offence punishable under section 323 of the Penal Code (Chapter 119).